

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

Return Date: December 29, 2011
Time: 9:30 a.m.

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In re:

THOMAS GIOELI, JR.

Chapter 13
Case No.: 811-77379-736

Debtor(s)

NOTICE OF MOTION

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SIRS / MADAMS

PLEASE TAKE NOTICE, that MICHAEL J. MACCO, Chapter 13 Trustee of the above captioned estate, will move before the Honorable Robert E. Grossman, United States Bankruptcy Judge on the 29th day of DECEMBER, 2011 at 9:30 a.m., at the United States Bankruptcy Court located at the Long Island Federal Courthouse, 290 Federal Plaza – Courtroom 860, Central Islip, New York 11722, for an Order pursuant to 11 U.S.C. §§ 503(b), 521, 1307(c), & 1326(a)(2) dismissing this case by reason of the debtor(s)' failure to submit monthly pre-confirmation payments, failure to provide and/or file documents, failure to appear at §341 meeting of creditors, and paying to the Trustee reasonable, necessary costs and expenses, and for such other and further relief as this Court deems just and proper.

PLEASE TAKE FURTHER NOTICE, that answering papers, if any, shall be filed with the Court and served upon the undersigned no later than three (3) days prior to the return date of this motion.

Dated: Melville, New York
November 30, 2011

Yours, etc.

MICHAEL J. MACCO
Chapter 13 Trustee
135 Pinelawn Road, Suite 120 South
Melville, New York 11747
(631) 549-7900

To: *Office of the United States Trustee
Long Island Federal Courthouse
560 Federal Plaza
Central Islip, NY 11722*

*GMAC Mortgage, LLC
c/o Steven J. Baum, P.C.
220 Northpointe Parkway, Ste. G
Amherst, NY 14228*

*Thomas Gioeli, Jr.
6 Windmill Road
Oakdale, NY 11769*

*Richard Jacoby, Esq.
Attorney for Debtor(s)
1737 North Ocean Avenue
Medford, NY 11763*

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

THOMAS GIOELI, JR.

Chapter 13

Case No.: 811-77379-736

Debtor(s)

APPLICATION

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TO THE HONORABLE ROBERT E. GROSSMAN, UNITED STATES BANKRUPTCY
JUDGE:

MICHAEL J. MACCO, Chapter 13 Trustee in the above captioned estate,
respectfully represents as follows:

1. The debtor(s) filed a petition under the provisions of 11 U.S.C. Chapter 13 on
October 19, 2011, and thereafter MICHAEL J. MACCO was duly appointed and has qualified as
Trustee.

2. As of the date of this motion, the debtor(s) has failed to submit any monthly pre-
confirmation payments to the Trustee.

3. In addition, as of this date the debtor(s) has failed to provide the Trustee with a
lease agreement for \$2,100.00 and an affidavit of contribution including pay stubs attached for
\$1,098.88.

4. Furthermore, the debtor failed to appear at the initial §341 meeting of creditors,
held on November 29, 2011 at 9:00 a.m.

5. This is a material default and is prejudicial to the rights of the creditors of the
debtor(s).

WHEREFORE, the Trustee prays for an Order pursuant to the provisions of 11
U.S.C. §§ 503(b), 521, 1307(c), & 1326(a)(2), dismissing this case, and paying to the Trustee
reasonable, necessary costs and expenses, and for such other and further relief as this Court
deems just and proper.

Dated: Melville, New York
November 30, 2011

/s/ Michael J. Macco

Michael J. Macco, Chapter 13 Trustee
135 Pinelawn Road – Suite 120 South
Melville, New York 11747
(631) 549-7900

STATE OF NEW YORK)
COUNTY OF SUFFOLK) ss.:

LONI BRAGIN, being duly sworn, deposes and says: deponent is not a party to this action, is over 18 years of age, and resides in Suffolk County, New York.

On November 30, 2011, deponent served the within:

NOTICE OF MOTION AND APPLICATION

upon the following parties, at the addresses designated by said parties for that purpose, by depositing a true copy of same, enclosed in a post-paid, properly addressed wrapper in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York:

*Office of the United States Trustee
Long Island Federal Courthouse
560 Federal Plaza
Central Islip, NY 11722*

*Thomas Gioeli, Jr.
6 Windmill Road
Oakdale, NY 11769*

*Richard Jacoby, Esq.
Attorney for Debtor(s)
1737 North Ocean Avenue
Medford, NY 11763*

*GMAC Mortgage, LLC
c/o Steven J. Baum, P.C.
220 Northpointe Parkway, Ste. G
Amherst, NY 14228*

/s/ Loni Bragin
LONI BRAGIN

Sworn to before me this
30th day of NOVEMBER, 2011

/s/ Janine M. Zarrilli

NOTARY PUBLIC

Janine M. Zarrilli
Notary Public, State of New York
No. 01ZA5084708
Qualified in Nassau County
Commission Expires September 8, 2013